

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

RICKY LEE RUSHING,
ADC #65405

PLAINTIFF

v.

1:14CV00028-KGB-JTK

WARDEN GUY, et al.

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge Kristine G. Baker. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District

Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Plaintiff Rushing filed this pro se 42 U.S.C. § 1983 action while incarcerated at the Arkansas Department of Correction (ADC) (Doc. No. 1). On December 2, 2014, mail sent to Plaintiff at the Ouachita River Unit was returned to the Court, as undeliverable (Doc. No. 58). The Court then directed Plaintiff to provide notification of his current address and his intent to continue with the prosecution of this action, within thirty days, warning him that failure to do so would result in the dismissal of this action (Doc. No. 59). The copy of the Order sent to Plaintiff at his last-known address was returned to the Court as undeliverable on December 9, 2014, and as of this date, the Court has not received any communication from Plaintiff.¹

Therefore, pursuant to Local Rule 5.5(c)(2), Plaintiff’s Complaint should be dismissed without prejudice, for failure to prosecute.² Accordingly,

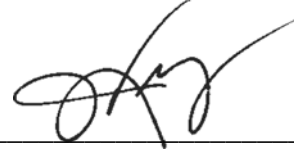
¹Plaintiff also is no longer listed as an inmate on the Arkansas Department of Correction website.

²Rule LR5.5(c)(2) of the Rules of the United States District Courts for the Eastern and Western Districts of Arkansas provides as follows:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address,

IT IS, THEREFORE, RECOMMENDED that Plaintiff's complaint be DISMISSED without prejudice for failure to prosecute.

IT IS SO RECOMMENDED this 8th day of January, 2015.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE

to monitor the progress of the case and to prosecute or defend the action diligently If any communication from the Court to a pro se plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. . . .